



**TO:** Pennsylvania Parole Board Members

**FROM:** Farrah Conjar  
Executive Secretary II to the Chairperson

**DATE:** May 3, 2022

**RE:** Board Meeting Minutes  
**April 20, 2022**

In compliance with *Act 175*, known as the *Sunshine Law*, effective September 17, 1976, the Office of Board Secretary provided notification to the public of the scheduled meeting on April 20, 2022 of the Pennsylvania Parole Board.

The public meeting convened at 9:00 AM at Riverfront Office Center in Harrisburg, PA with Chairperson Theodore Johnson presiding. A quorum of Board Members was present.

### **Attendance**

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> Chairperson Ted Johnson                  | <input checked="" type="checkbox"/> BD Member Leo Dunn                                | <input checked="" type="checkbox"/> BD Member Tony Moscato    |
| <input checked="" type="checkbox"/> BD Member Marcus Brown                   | <input checked="" type="checkbox"/> BD Member Jim Fox                                 | <input checked="" type="checkbox"/> BD Member Linda Rosenberg |
| <input checked="" type="checkbox"/> BD Member Khadija Diggs                  | <input type="checkbox"/> BD Member Mark Koch  |   |
|  |   |   |
| <input checked="" type="checkbox"/> Alan Robinson, Chief Counsel             | <input checked="" type="checkbox"/> Deb Carpenter, Board Secretary                    |   |
| <input checked="" type="checkbox"/> Neil Malady, Policy/Legislative Affairs  | <input checked="" type="checkbox"/> Scott Woolf, Director – Office of Board Secretary |   |
| <input checked="" type="checkbox"/> Morgan Davis, Assistant Counsel          | <input checked="" type="checkbox"/> Laura Treaster, Special Assistant                 |   |
| <input checked="" type="checkbox"/> Michael Potteiger, Chief Hearing Officer | <input checked="" type="checkbox"/> Suzanne Estrella, Office of Victim Advocate       |   |
| <input checked="" type="checkbox"/> Gary Holland, Deputy Chief HEX           | <input checked="" type="checkbox"/> Meghan Dade, SOAB Executive Director              |   |
| <input checked="" type="checkbox"/> David Ciafre, Deputy Chief HEX           | <input type="checkbox"/> Janaki Theivakumaran, SOAB Exec. Asst.                       |   |
|  | <input checked="" type="checkbox"/> John Manning, Deputy Chief Counsel DOC            |   |

Chairperson Johnson recognized public guests:  
Mark Bergstrom, Pennsylvania Sentencing Commission

### **APPROVAL OF FEBRUARY BOARD MEETING MINUTES**

Board Member Moscato motioned to approve the February 16, 2022 Parole Board minutes. Board Member Fox seconded the motion. The Parole Board unanimously approved the minutes.

## **Agency Presentations**

Presentation by Office of Vocational Rehabilitation - Kimberly Gerlach - to provide the Board an overview of the services provided.

Presentation by Department of Corrections Psychology - Lucas Malishchak and James Harrington - to provide an overview of sex offender treatment.

## **OFFICE AND STAFF REPORTS**

### **Office of Victim Advocate (OVA) Report**

Victim Advocate Suzanne Estrella

- Working on removing duplicate information from files.
- In May we will be opening up in-person testimony, so that in person will be one day and videos will be the second day.
- Great feedback on how things went yesterday with F2F from staff and the victim participants much they appreciated how Board Members and other staff worked with victims.
- Crime Victims Rally will be held Monday, April 25, 2022. OVA will host the Crime Victim Rally summit at 1:00 p.m. at the Capitol, to promote collaboration on how different agencies work together in networking etc.

### **Sexual Offenders Assessment Board (SOAB)**

Executive Director Meghan Dade

- Next training will be May 13, 2022 in the Poconos, part of the Mid-Atlantic Region Association for the Treatment of Sexual Abusers (MARATSA) conference, which is a 2-3-day conference. If anyone is interested, SOAB staff can forward you the registration information.
- Board Member Brown suggested that Board Members and Hearing Examiners hear what conclusions are on why the offender may be denying his/her sex offense. Director Dade and SOAB staff will develop a training session for the Board Members on current best practices for treating and supervising sex offenders who deny their offenses.

### **Communications/Media Report**

Special Assistant Laura Treaster

- Participated in a Teams meeting on April 19 with Deb Carpenter, Bret Bucklen, Michelle Sheets from the DOC Stats and Analysis Office, as well as Matthew Kleiman and Brett Miller to discuss recidivism data.
- Bret Bucklen informed the group the recidivism report was in the process of being completed, just prior to pandemic, which has delayed the final product until a hopeful release in May 2022. The report will focus on type of instant offence, Static 99, LSI-R, prior arrests and convictions, prior number of probation and parole failures, DOC misconducts. The report itself is a very in-depth review, will be 50 or more pages and will focus on the timeframe of 2013 to 2018. Bret and Michelle stated that when complete,

the preliminary final copy will be given to Acting Secretary Little and Chairman Johnson, who may then share the report with Board Members. In process of providing a preview of their report to Secretary Little and Chairman Johnson sometime in May 2022 recidivism data is going to address the timeframe between 2013 and 2018. Bret and Michelle also indicated they will be reviewing the data needs for their office to accomplish our request for more detailed statistics on CPVs and TPVs. Deb added moving forward, the recidivism report would be provided on a 3- and 5-year basis.

### **Policy and Legislative Affairs Report**

Policy and Legislative Affairs Director Neil Malady

- It is primary election season. The House of Representatives will return next week for 3 days and will be back in session on May 23<sup>rd</sup> for 3 days. The month of June will be budget season.
- There are two reappointments with Chairman Johnson and Board Member Rosenberg, whose terms expire on June 14. They both can be reappointed on June 15<sup>th</sup> and must be on the Senate calendar for 10 days. With Board Member Koch's retirement and Board Member Barden's resignation, the Governor's office is looking to do a package of nominations for the Board. If the Senate leaves early in June, the Board will be looking at September confirmations. If the Senate stays until the end of June, it is possible to get through the 10 days that are required.

### **Office of Chief Counsel Report**

Chief Counsel Alan Robinson

- The *Scott* case was argued before the PA Supreme Court. The case was brought by the Abolitionist Law Center, who claimed that Section 6137 our statute which states that the Board cannot release life-sentenced inmates is unconstitutional. Commonwealth Court dismissed the case for lack of jurisdiction.
- Received a decision in a case – *El-Amin vs. Parole Board* – that Attorney Tim Keating argued on behalf of the Parole Board. This is the first decision on the post-merger statute. The argument focused on the change in the law which says time in a CCC or CCF is considered to be at liberty on parole was a change in the law and could not be applied retroactively because the court said it was punitive. The court said it is not a change in the law, but a codification of prior case law and the issue of whether it is punitive was not before the court.
- Financial disclosures should be submitted by April 30, 2022 as they are due May 1, 2022.

### **Board Secretary Office Report**

Board Secretary Office Director Scott Woolf

- An updated timeline on the E361 will be provided as we move forward with this process. These upgrades will be a very big and positive change. Plan to start testing in the beginning of May.
- There have been questions recently with regard to deportation orders and detainers. There are two scenarios: if the Decision Makers elects to parole the individual, if he/she is

not deported from the country, when the Decision Maker selects a selection in the box with either a minimum eligibility date or an actual date, a check is to be made in the Immigration and Customs Enforcement Detainer or the Immigration and Customs Enforcement Deportation Order box, this text is translated to a Board Action that a home plan is needed. By doing this, if something transpires in the person's case that he/she is not deported or detained, the parolee can be paroled. The other selection is deportation only. Parole staff techs do not place a home plan on the Board Action, then, if the person is not deported, he/she will be returned to the SCI. Scott stated staff is working on modifying the wording on this particular subject matter for clarity.

Chairman Johnson stated if a Decision Maker would not parole a person to either another part of the United States or to Pennsylvania, the person shouldn't just be paroled to another country to remove the issue. If you are not willing or do not think the person is ready to be paroled, the Decision Maker should not use deportation as the reason to parole. This applies to individuals who have reached their minimum date.

### **Board Secretary Report**

Board Secretary Deb Carpenter

- Board Member Dunn stated that Decision Makers who are reviewing a case that involves a seriously mentally ill (MH Class D) individual who is close to max, but the Decision Maker does not want the person to max, the option to parole the person to a secure forensic facility is available. This option isn't used very often, but is available and the Department of Health and Human Services will work with DOC to try to place them.
- Board Member Dunn stated that when reviewing a person for parole, if he is denying the person for the 2<sup>nd</sup> time, he will counsel the person about the need to get misconducts under control or talk about the need for programming. For reviews of the same person for the third, fourth or more times, it is up to the individual Decision Maker to recuse themselves from the parole review. Deb explained to the Board Members that if the review is the third, fourth or more occurrence, the Decision Maker should make a note of this fact in the notes section on the 361 to recuse yourself from the interview. If it is a majority vote, there is a possibility then that the Decision Maker would need to add his/her vote. Additionally, there is no way in the current system to record how many times the same person has interviewed the person; therefore, it is up to the individual Decision Maker to make this notation.
- Alan explained a few cases have been discovered that mandatory conditions that existed based on a parole interview are not showing up in subsequent Board Actions for one reason or another. These nuances have been discovered by OVA staff and/or DOC field or institutional staff. To correct this situation, the recommendation is, if the Hearing Examiner has a violation hearing that will require another Board Action, the Hearing Examiner must go back and look at the most recent discretionary release Board Action and reimpose the mandatory conditions previously imposed. Those mandatory

conditions should only include those that are still in effect such as no contact with a victim, or no travel in a certain area. Examples of those not to be re-imposed would be a curfew for the first 30 days of release or a D&A evaluation that was ordered to be done and has already been completed.

- Deb participated in recent Hearing Examiner interviews over a four-day period with Chairman Johnson, Board Members Koch and Rosenberg. In all, 36 candidates were interviewed and the top three candidates were selected. There are currently two vacancies. One position is being filled while the other position will wait until the new Chief Hearing Officer begins his position.

### **Office of Hearing Examiners Report**

Chairman Johnson stated the Parole Board approved the development of violation hearing officer within the Hearing Examiner Office. Because of the work involved, these positions were desired to be attorneys. In doing so, Chad Allensworth applied and was accepted as the violation hearing officer, which left the Chief Hearing Officer position vacant. Chairman Johnson announced that Michael Potteiger has been selected to assume the position of Chief Hearing Officer position. Mr. Potteiger is a former Board Member, a former Parole Board Chairman, an annuitant Hearing Examiner as well as a former county probation officer and former county probation chief.

Michael Potteiger thanked the Chairman and the Parole Board for the opportunity. He said he is looking forward to coming back to the Parole Board.

### **Comments from Guests**

Mark Bergstrom reported the Commission has scheduled public hearings on proposals around the parole guidelines. They will be May 31<sup>st</sup> and on June 1<sup>st</sup> and available by Zoom. The input on these guidelines is important as the DOC moves from the LSI-R to Strong R. All of this is important as the sentencing guidelines are reviewed over the coming months.

### **ADJOURNMENT**

At 11:45 AM Board Member Brown made a motion to adjourn the public session. The motion was seconded by Board Member Rosenberg. The Board Members voted unanimously to adjourn the public session.